

15-CV-0969

CAUSE NO. _____

JAMES BLASCZYK	§	IN THE DISTRICT COURT OF
	§	
PLAINTIFF,	§	
V.	§	GALVESTON COUNTY, T E X A S
	§	
24 HOUR FITNESS USA INC	§	Galveston County - 56th District Court
	§	
DEFENDANT.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff James Blasczyk ("Plaintiff") files his Plaintiff's Original Petition, complaining of Defendant 24 Hour Fitness USA Inc. ("Defendant" or "24-Hour Fitness"), and will respectfully show the Court the following:

DISCOVERY

1. Discovery will be conducted pursuant to Rule 190.3 of the Texas Rules of Civil Procedure (Level 2). Plaintiff affirmatively pleads that it seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00.

PARTIES

2. Plaintiff James Blasczyk is an individual residing at 804 Tall Pines, Friendswood, Harris County, Texas 77506.

3. Defendant 24-Hour Fitness is a California corporation licensed to do business in the State of Texas. Defendant maintains its principal place of business at 12647 Alcosta Blvd., 5th Floor, San Ramon, California, 94583. It may be served with process through its registered agent for service, Corporation Service Company, 211 E. 7th St., Suite 620, Austin, Texas, 78701.

JURISDICTION

4. This Court has subject matter jurisdiction over this dispute because this is a civil action in which the damages exceed the jurisdictional minimum of this Court.

Status Conference set 12-10-15

5. This Court has personal jurisdiction over Defendant because Defendant does business in the state of Texas and has purposefully availed itself of the benefits and protections of the state of Texas by establishing minimum contacts with the state such that it should reasonably anticipate being haled into court in Texas.

VENUE

6. Pursuant to § 15.002(a)(1) of the Texas Civil Practice and Remedies Code, venue is proper in Galveston County because all or a substantial part of the acts or omissions giving rise to the Plaintiff's causes of action occurred in Harris County.

BACKGROUND

7. On or around May 2015, Plaintiff was working out and playing basketball at a 24 Fitness club located at 130 West Parkwood Ave., Friendswood, Texas, 77546. He was a club member and business invitee of 24-Hour Fitness.

8. While playing basketball, Plaintiff was injured on 24-Hour Fitness' defective basketball court.

9. Plaintiff is a professional basketball player; as such, he makes his living using his athletic ability and body. Due to his injuries, he is unable to play for at least the entire 2015-2016 season due to Defendant's negligence. At this time, he is uncertain whether his injuries are career-ending.

CAUSES OF ACTION

Negligence

10. Defendant failed to appropriately maintain the defective basketball floor. This defective floor existed and posed an unreasonable risk of harm to a person present on the property, namely Plaintiff. Defendant knew, or should have known in the exercise of ordinary care, that the condition of their property posed an unreasonable risk of harm to those using the

court, namely Plaintiff.

11. Defendant should have anticipated that a person on the property would not discover the danger or would fail to protect himself or herself against it. Defendant was negligent in that it created the condition, knew about the condition and negligently failed to correct it or should have known about the condition. As a result of Defendant's conduct, Plaintiff was seriously injured. The condition of Defendant's property caused Plaintiff's injury.

REQUEST FOR DISCLOSURE

12. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the service of this Plaintiff's Request for Disclosure to Defendant.

CONDITIONS PRECEDENT

13. All conditions precedent have been performed, have occurred or have been waived.

PRAYER

Plaintiff prays that Defendant be cited to appear and that, upon the trial of this matter, Judgment be entered in favor of Plaintiff as follows.

1. actual damages;
2. pre- and post-judgment interest as allowed by law;
3. all reasonable and necessary attorneys' fees and expenses;
4. costs of suit; and
5. all other and further relief to which Plaintiff is justly entitled.

Respectfully submitted,

RADACK AND BORUNDA, P.C.

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